

In the Common Council Chambers of the Municipal Building held on October 18, 1979, with Councilpresident Allison presiding over a regular session of the Common Council.

OCTOBER 18, 1979
COMMON COUNCIL
REGULAR SESSION

Councilmembers present: Morrison, Allison, Kinzer, Richardson, Olcott, Blume, Towell, Middleton, Young (during Res. 79-28).
Councilmembers absent: None.

ROLL CALL

Councilpresident Allison read the agenda summation.

AGENDA SUMMATION

Kinzer commented that she is not running for re-election this year, stating that during her term on the Council she has tried to see that the City is run as a business. She said many ordinances cost the City a great deal of money, and this is why she sponsored an ordinance to require fiscal impact statements with relevant legislation. She said that she hopes that residents of Hoosier Acres will listen to how the College Mall ordinance would affect the entire city, not just their area.

MESSAGES FROM
COUNCILMEMBERS

Richardson said he thinks it is very important that Westinghouse be open concerning their proposed solutions to the PCB problem, whether it is on their site or not. Second, he said that Red Cross has landscaped the area around their new parking lot, and it looks very nice. Third, he said he was very pleased with the reconstruction of People's Park, noting that it was done almost entirely with in-house labor. Fourth, he said that there have been some inaccurate charges against the Housing Code Office concerning their schedule running behind. He said that they are actually ahead of schedule and are running more efficiently than ever.

Olcott congratulated the I.U. Soccer Team on their #1 national rating. He said he was also very pleased with People's Park. Finally, he said that he was sorry to hear that Jim Wray was leaving the City administration, stating that he had been very helpful. He wished Steve Richardson good luck in Washington also.

Blume added his compliments to People's Park, and invited people to take a look at it. Concerning Jim Wray, Blume said that the Mayor is wise to surround himself with good people, adding that Jim Wray is close to being indispensable. On the PCB problem, Blume said that people must be concerned since the City's new Dillman Road plant cannot open until the PCB level in the sewer lines is low enough to get approval from the EPA.

Allison thanked everyone for helping to clean up the litter at Griffy Lake on a Sierra Club/Operation City Beautiful joint project. Second, she said that Sigma Kappa Sorority will help the City plant tulips in Third Street park next week. She added her regrets at seeing Jim Wray leave the City. Concerning PCB's, she added that Westinghouse and the State have come to agreement on how to do their in-house cleaning, stating that they hope to clean them rather than replacing them. Finally, she read a letter from the State Highway Commission in which they decline to come to the Common Council meeting this evening to address the College Mall issue.

Morrison announced that Monroe Street has now been improved and opened between Tenth and Eleventh Streets.

Mayor McCloskey announced that several downtown projects are in the works. The Economic Development Commission recently approved \$600,000 in bonds for reconstruction of the old Wicks Building on W. Sixth Street, also the Graham Hotel improvements are progressing, as is the parking garage. Also, the musical mural on the side of the Smith-Holden building promises to greatly improve the near west side's appearance. Also in the area of economic development, the proposed mall on Whitehall Pike is progressing in the planning stage. On the College Mall PCD designation, he said that the City will have to work with the state

MESSAGE FROM
THE MAYOR

and the citizens on traffic concerns. He reminded the Council that the area was zoned for business long ago, noting that the City down-zoned fifty acres in the area back to residential in 1973. He said that all agreements will be in writing and that the City will require a performance bond from the developers before a temporary occupancy permit is issued. As a final note, he said the City has agreed to landscape and maintain the median strip on Clarriz Boulevard.

There were no Petitions or Communications.

PETITIONS AND COMMUNICATIONS

Richardson moved and Morrison seconded a motion to introduce and read Resolution 79-33 in its entirety.

RESOLUTION 79-33
EDC Bonds for
Episcopal Housing

Connors read Resolution 79-33 in its entirety.

Richardson moved and Morrison seconded a motion to adopt Resolution 79-33, and Allison read the legislative synopsis.

Olcott gave the committee report, noting a Do Pass recommendation of 6-0. He added that this will be a wonderful addition to the City.

Resolution 79-33 was then adopted by a vote of Ayes: 8, Nays: 0.

Richardson moved and Olcott seconded a motion to introduce and read Resolution 79-28 by title only. By a voice vote of Ayes: 7, Nays: 1 (Kinzer), Council voted to read it by title only. Connors read Resolution 79-28 by title only.

RESOLUTION 79-28
EDC Bonds for
Mallor & Prall

Richardson moved and Olcott seconded a motion to adopt Resolution 79-28, and Allison read the legislative synopsis, noting that the Economic Development Commission approved this resolution today. There was no committee report.

Steve Richardson, attorney for the petitioners, stated that presently the building is only used to 30% of its potential. They plan to keep the sports store on the bottom floor with the upper two floors to be used for office space. He then showed a model of the proposed remodeling. They plan to build an atrium in the front, and the project will create fifteen new jobs. He concluded that the downtown parking garage has acted as a catalyst for downtown revitalization, and that this development should help to encourage businesses to re-invest in the downtown.

Blume and Towell said this is a good idea, but Blume said he is concerned about the bond market. Richardson replied that many businesses have come to the Council with inducement resolutions, but few have actually come back with the final ordinance. He said bonds are still a good investment for those in the 50% tax bracket.

Resolution 79-28 was then adopted by a roll call vote of Ayes: 9, Nays: 0.

Olcott moved and Richardson seconded a motion to introduce and read Resolution 79-32 by title only.

RESOLUTION 79-32
Authorize Filing
Application for
Mass Transit Grant

Connors read Resolution 79-32 by title only.

Richardson moved and Morrison seconded a motion to adopt Resolution 79-32. Allison read the legislative synopsis.

Olcott gave the committee report, noting a Do Pass recommendation by a vote of Ayes: 5, Nays: 0.

Resolution 79-32 was then adopted by a roll call vote of Ayes: 9, Nays: 0.

Richardson moved and Olcott seconded a motion to introduce and read Ordinance 79-78 by title only.

ORDINANCE 79-78
Budget Transfers

Deputy Clerk Lacewell read Ordinance 79-78 by title only.

Richardson moved and Morrison seconded a motion to adopt Ordinance 79-78. Allison read the legislative synopsis.

Olcott gave the committee report showing a Do Pass recommendation by a vote of 6-0.

Kinzer again reiterated her point that budget transfers are in effect additional appropriations since the funds would revert to the general fund if they were not transferred. She said the synopsis is misleading in this respect.

After a short discussion Ordinance 79-78 was adopted by a roll call vote of Ayes: 9, Nays: 0.

Richardson moved and Morrison seconded a motion to introduce and read Appropriation Ordinance 79-13 by title only.

APPROPRIATION
ORDINANCE 79-13
From FRS to
FRS-Animal Control

Deputy Clerk Lacewell read Appropriation Ordinance 79-13 by title only.

Richardson moved and Morrison seconded a motion to adopt Appropriation Ordinance 79-13. Allison read the legislative synopsis.

Olcott read the committee report with a Do Pass recommendation by a vote of 6-0.

Morrison asked why these funds are needed and Jim Lang, Animal Shelter Director, responded that the shelter needs to be upgraded in order to be accredited. These improvements will help to make the shelter one of the best in the state.

Appropriation Ordinance 79-13 was then adopted by a roll call vote of Ayes: 9, Nays: 0.

Richardson moved and Olcott seconded a motion to introduce and read Ordinance 79-83 by title only.

ORDINANCE 79-83
To Amend Zoning
re: College Mall
to Designate as
PCD and Approve
Outline Plan

Deputy Clerk Lacewell read Ordinance 79-83 by title only.

Richardson moved and Olcott seconded a motion to adopt Ordinance 79-83. Allison read the legislative synopsis.

Towell gave the committee report, noting a Do Pass recommendation by a vote of 4-1-1 as amended. He noted that the Council had considered the zoning before in the spring, and it was approved contingent upon state approval of certain improvements. The developer and city have approached the state to secure their approval, but the state has not gone along with re-timing the signal at Third and College Mall Road, stating that they will when the development is complete, but not before. They have required an additional lane to Third Street at an approximate cost of \$300,000. The additional cost to the developer has been the cause for several changes in the outline plan, such as reducing Clarriz Boulevard from four lanes to two and to delete curbs and sidewalks from Buick/Cadillac until such time as development occurs to the south and they proposed rolling shoulders instead.

Allison laid out the ground rules for discussion with three minutes being allowed to each speaker and ten for the various groups petitioning the Council.

Councilmember Blume said he would not participate in the discussion since he has a potential conflict of interest by owning the Bottle Shop across the street from K-Mart. Since he feels that the change of signalization and median division in Third would hurt his business, he will step down and not vote on the rezoning. He suggested that the Council select a replacement for the vote since the vote will probably be needed either way.

Middleton said he would rather see Blume's seat go unfilled and that his vote be registered as an absent no vote. He said to put someone else in the position would be a serious miscarriage of legislative responsibility. Young agreed.

Morrison said perhaps he should step down since he votes on the zoning of businesses that may be in direct competition with his own. Allison said this is a direct conflict of interest for Councilmember Blume, and she will respect his wishes. She noted that state law is very explicit in setting out that the position must be filled. She then suggested that Jim Lang of the Animal Shelter be chosen to replace Blume. Lang was then approved by unanimous voice vote.

Kinzer asked Lang about his feelings on zoning cases, and Lang answered that he has no feelings one way or the other.

Lee Klotz of the Planning Department gave an overview of the College Mall situation over the last twelve years. He explained that the area is currently zoned business arterial, and noted that before some extensive downzoning in 1973, much more of the surrounding land was also zoned BA. He continued that the variety of businesses allowed in the BA zone is practically endless, and that the City has a great deal more control over the development with a planned commercial development designation. The request before the Council is to approve the outline plan, not to determine the zoning which was done many years ago. He went through the various changes to the plan proposed by the developer in response to the most recent discussions with the state - a continuous fifth lane on Third Street, changing the number of lanes on Clarriz Boulevard from four to two lanes (because of the added expense of the fifth lane on Third), and also fewer lanes on part of College Mall Road. Also, the elimination of the proposed traffic signal at Third and Clarriz because the state thought it was inappropriate. Another change requested by the Council was retiming of the signal at Third and College Mall Road, but the state has denied this until the development is complete. The elimination of curbs on the Buick-Cadillac Drive extension has also been requested, with rolling curbs substituted. The curbs would only be added when development occurs to the south, along with the sidewalk on the south side of Ayr Way. The final change would be the addition of a one quarter acre of land near the mall entrance off Buick-Cadillac. The interior drive at Kingston drive has also been slightly revised.

Kinzer said that the Council has been told that since the area is now zoned BA, there is nothing they can do. But she contended that the Council could rezone the land as they did in 1973. Towell responded that the 1973 rezoning was part of the revision of the entire set of zoning maps, not just one spot.

Gary Clendening added that downzoning has been tested twice in the courts, and has not stood up either time. Olcott added that the Council got themselves in a lot of trouble by downzoning the land near Blue Ridge that was to be used for a hotel, at a considerable cost to the City when it finally went to court.

Andy Mallor, attorney for the residents of Hoosier Acres, said they agree with the developer on more points than they disagree. They agree that a mall would be good for the economy and that the traffic situation is terrible. They do disagree on the location of the proposed mall, stating that it would be more appropriate to have it on the west side of town. When the Council approved the Mall expansion earlier, it was on the contingency that certain changes be made in the plan, and this has not been done. He continued that the BA zone does allow for many business uses, but that if they wanted to build under a BA zone, the petitioner would have to obtain numerous variances from the Plan Commission for setback, parking, density, etc.

He said that the Council should wait until the proposed improvements are made before they approve the outline plan. He said the past year of work has been a learning experience for all of the people involved in seeing the benefits of citizen participation in the decision-making process. He said the Planning Department has been very thoughtful and cooperative throughout the entire proceeding. He urged the Council to defer on making a decision until further impact studies are done or such time as political pressure can be put on the state to change their plans.

Saul Rockman, President of the Hoosier Acres Resident Association, addressed the Council. He showed maps of the College Mall area to the Council. He said originally there were two areas of Third that would have right turn lanes, instead of the present one. Also, four lanes were proposed for Clarriz, stating that the petitioner is reducing the improvements at the expense of area residents. A fifth lane on College Mall Road from the entrance to Second Street was proposed, and now there will be only one additional lane instead of the original two. The resignalization at Third and Bypass has been delayed at a savings of \$60,000. Sidewalks and curbs are to be eliminated in some areas as well. He said that the \$300,000 cost of the additional lane on Third Street does not compare to the savings incurred with the changes proposed by the developer in the present outline plan. In addition, the City will incur additional expense. He also said that with a BA zone instead of a PCD, the area to be used for the expansion would have to be reduced by 11% and would have to get variances from parking and setback requirements, to name a few. To summarize, he said it is inconceivable to allow all of these changes to the outline plan. He also said that the developer had said that they would undertake intensive beautification of the mall, but to date nothing has been done. He said they would like the Council to initiate traffic studies in the area. He said no benefits will accrue to those on High or Covenanter. The entire traffic pattern on the southeast side of the city needs to be worked out before the Council grants approval.

Sue Levy said that the thing that concerns her is that there is now no buffer area between the commercial and residential areas. With additional development, there will be an increase of flooding in the Hoosier Acres area as well.

William Scott of Hoosier Acres said that he fails to see how the mall development would be good for the city. He said economic development cannot be given higher priority when there are intolerable conditions as a result. He said the accident rate has increased dramatically since the mall was completed and it is bound to get worse with additional development. He contended that the Council does have a choice - the one that Councilmember Kinzer brought out - and he then urged the Council to delay action on the project.

Fran Moore spoke as a representative of the people that live along Moore's Pike and Covenanter. She asked that if the Council does approve the project, that they consider making Moore's Pike four lane from High Street to College Mall Road because of the increase in traffic.

Roger Werthheim of the Rogers Elementary School PTO, said that he is concerned about the safety of school children that walk and ride their bikes in the area. He said Covenanter will be used as a shortcut from Sycamore Knolls and the area south of town because it will almost hook up with Buick-Cadillac Drive. This project will affect the children from Rogers, Child's and Elm Heights School, along with Binford.

Anita Pazinsky, President of the Bloomington Montessori School, said that they have sixty children in their school, which is on College Mall Road. Many of them walk on Second, Third and College Mall Road. She said it is only a matter of time before one of the children is injured or killed in an accident in the area. The Board of Directors

asks that the Council consider the safety of the children when they make their decision.

Don Lampkins of the Bloomington Building Trades Council urged the Council to approve the project for reasons of economics and the creation of jobs in the community. It will also add quite a bit of money to the City's tax base. He added that he is sure that the state will not do anything to Third Street until they are sure the need is there.

(NOTE-AT THIS POINT THE TAPE OF THE MEETING WENT BLANK. THE FOLLOWING IS A SUMMARY FROM DEPUTY CLERK LACEWELL'S NOTES).

Ron Drahos of the Traffic Commission said it is a bad misconception that the traffic argument is between the residents of Hoosier Acres and Mel Simon. He said it concerns the entire community. He claimed that the concept of five lanes on Third Street with turn lanes could have a drastic effect on businesses because many people will only be able to make turns in one direction with the increased traffic flow.

A representative of the University School PTO said that the safety situation for children in the area is already bad, and this development will only compound the situation.

Terrence Martin, Bloomington resident, said that he thinks Mel Simon is showing a flagrant disregard for the City administration with their proposal.

Gary Clendening, attorney for the petitioner, Mel Simon, said that there was no "breach of integrity" between Mel Simon's original plans and what they are doing now. He said the petitioner stated at the beginning of the process what they would like to do, and this has changed minimally. He said any changes that are proposed have been done out of economic necessity or by actions by the state, not because of pressure from the surrounding neighborhoods. He said there are bottlenecks around the mall area, but that Mel Simon did not create them and he should not be expected to solve all of them. If the Council votes no on the proposal, they will be left with a large BA zone with no traffic improvements supplied by the developers what-so-ever. These alternatives could be very unattractive and could create a traffic situation much worse than the present one. As far as the zoning question goes, the owner of the land has to have reasonable security that they can rely on the zoning.

Councilmember Richardson said that the question before the Council is what contingencies were imposed on Mel Simon that were important and whether they want to proceed with the original proposal. He said there is new information and many questions are left unanswered. He urged the Council to defer the matter until the original contingencies are met. Middleton concurred.

Richardson moved and Middleton seconded a motion to table Ordinance 79-83 until the contingencies are met.

Olcott said that the City has gained sidewalk and traffic improvements and that he believes the State will work in good faith with the Council. At this point, there is little the Council can do to improve the situation.

Councilmember Towell said that he wants to know what new arguments were made against what was planned in the spring. He said there has been no major new information. He continued that there are still things to be considered (such as the safety of bicyclists and children) but said he is sure they can be worked out.

Clendening answered Richardson's motion by saying that the only reason to defer action would be if major changes are being made. He said there are millions of dollars involved, and that the proposal deserves a vote.

Andy Mallor said that the question is whether or not they believe the developer. He said they reached an agreement with Mel Simon because of studies Mel Simon did on the area and they believe their traffic concerns would be met. He continued that the original agreement was on statistics Mel Simon presented and the new proposal has no new statistics. He concluded that further study is needed.

Councilmember Young said that because of the size of the project many problems are created but that the developer has responded in good faith. He moved, and Middleton seconded, a motion to require curbs and sidewalks on Buick/Cadillac Drive. Motion carried by a vote of Ayes: 9, Nays: 0. Councilpresident Allison said that the only problems left to decide are beyond the capacity of the developer. She said the City will do what they can, that it is a very difficult decision to make, but that they should make that decision tonight.

Ordinance 79-83 was then tabled by a roll call vote of Ayes: 5, Nays: 4 (Young, Morrison, Olcott and Allison).

The Council agreed to table action on the remaining second readings: Resolution 79-31 and Ordinance 79-77, until the next meeting, noting the late hour.

Richardson moved and Blume seconded a motion to introduce and read Ordinance 79-86 by title only.

FIRST READINGS
Ordinance 79-86
Budget Transfers

Deputy Lacewell read Ordinance 79-86 by title only and Allison read the legislative synopsis.

Richardson moved and Blume seconded a motion to introduce and read Ordinance 79-80 by title only.

ORDINANCE 79-80
Amend Zoning re:
NW & SW corners of
Curry Pike &
Vernal Pike to ML

Deputy Lacewell read Ordinance 79-80 by title only and Allison read the legislative synopsis.

Richardson moved and Blume seconded a motion to introduce and read Appropriation Ordinance 79-14 by title only.

APPROPRIATION
ORDINANCE 79-14
From CC and FRS-
Parks and Rec.

Deputy Lacewell read Appropriation Ordinance 79-14 by title only and Allison read the legislative synopsis. Since Federal Revenue Sharing Funds are involved, she asked for public comments, but there were none.

Richardson moved and Blume seconded a motion to introduce and read Ordinance 79-87 by title only.

ORDINANCE 79-87
To Repeal 4.08
of BMC, "Barbers
and Barbershops"

Deputy Lacewell read Ordinance 79-87 by title only and Allison read the legislative synopsis.

Richardson moved and Blume seconded a motion to introduce and read Ordinance 79-60 by title only.

ORDINANCE 79-60
To Amend BMC
re: Boards and
Commissions

Deputy Lacewell read Ordinance 79-60 by title only and Allison read the legislative synopsis.

Richardson moved and Blume seconded a motion to introduce and read Ordinance 79-88 by title only.

ORDINANCE 79-88
To Adopt "Sunset"
Law for Boards &
Commissions

Deputy Lacewell read Ordinance 79-88 by title only and Allison read the legislative synopsis.

Richardson moved and Blume seconded a motion to approve the minutes of September 20, 1979, as submitted. Motion carried by unanimous voice vote.

MINUTES FOR
APPROVAL: Sept.
20, 1979

The meeting was then adjourned at midnight.

APPROVE:

ATTEST:

Tomilea Allison
Tomilea Allison, President
Bloomington Common Council

Nora M. Connors
Nora M. Connors
City Clerk

Approved 12/6/79